

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii 96813

February 14, 2020

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

REQUEST FOR FINAL APPROVAL TO REPEAL HAWAII ADMINISTRATIVE RULES
(HAR) TITLE 13 CHAPTERS 84 AND 89 AND TO AMEND AND COMPILE HAR TITLE 13
CHAPTER 95, TO UPDATE AND CONSOLIDATE RULES AND STATUTORY
PROVISIONS REGULATING THE TAKE, POSSESSION, AND SALE OF SAMOAN CRAB,
KONA CRAB, AND LOBSTER

Submitted for your consideration and final approval is a request to repeal Hawaii Administrative Rules (HAR) chapters 13-84 and 13-89 and to amend and compile HAR chapter 13-95 to update and consolidate rules and statutory provisions regulating the take, possession, and sale of Samoan crab, Kona crab, and lobster.

The proposed action is intended to facilitate compliance with the rules by making it easier for the public to find all the applicable regulation on these crustacean species. The Division of Aquatic Resources (“DAR”) proposes to repeal HAR chapters 13-84 and 13-89 and incorporate their substantive provisions into HAR chapter 13-95. DAR also proposes to incorporate the relevant substantive provision of Hawaii Revised Statutes (“HRS”) chapter 188-58.5, regulating Samoan crabs, Kona crabs, and spiny lobsters, into HAR chapter 13-95. Statutory provisions are difficult to amend as they require legislative action. Transferring these provisions into administrative rules and eventually requesting the repeal of the corresponding statutory provisions would enable the Department of Land and Natural Resources (“DLNR”) to amend regulations through rulemaking to adaptively manage these resources based on the best available scientific information. The proposed administrative rulemaking actions would not result in any substantive changes to existing laws, so the taking, possession, or sale of these resources will not be affected.

On October 11, 2019, the Board of Land and Natural Resources (“BLNR”) approved the proposed action for public hearing. On November 07, 2019, Governor Ige approved the proposed action for public hearing.

DAR accepted public testimony on the proposed rules from December 8, 2019 to January 24, 2020 and held public hearings statewide on January 07, 08, and 09, 2020. DAR received a total of eight verbal and written testimonies. Seven testimonies were in full support and one testimony was in support of the repeal of HAR chapter 13-84 and 13-89 but opposes adding the restriction of take of female Kona crabs to HAR chapter 13-95. The minutes from the public hearings and written testimonies are attached as **Exhibit 1**.

Based on the written and oral public testimony received by DAR through the chapter 91 public hearings process, DAR recommends proceeding with the proposed actions. The proposed administrative rulemaking actions would not result in any substantive changes to existing laws, so the taking, possession, or sale of these resources will not be affected. A Ramseyer draft of the proposed repeal, amendment, and compilation of the rules based on results from the public hearing process, is attached as **Exhibit 2**.

RECOMMENDATION:

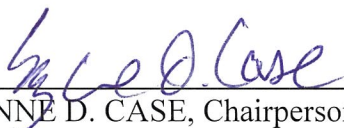
“That the Board give final approval to repeal Hawaii Administrative Rules chapters 13-84 (Samoan crab) and 13-89 (Spiny lobster or Ula and Slipper lobster or Ula pāpapa) and to amend and compile chapter 13-95 (Rules Regulating the Taking and Selling of Certain Marine Resources) to update and consolidate rules and statutory provisions regulating the take, possession, and sale of Samoan crab, Kona crab, and lobster.”

Respectfully submitted,



BRIAN NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachments:

- Exhibit 1 – Public Hearing Minutes
- Exhibit 2 – Ramseyer Draft

Exhibit 1

Public Hearing Minutes
Repeal of Hawaii Administrative Rules
CHAPTER 13-84
Samoan Crab
Repeal of Hawaii Administrative Rules
CHAPTER 13-89
Spiny Lobster or Ula and Slipper Lobster or Ula Papapa
Amendment and Compilation of Hawaii Administrative Rules
CHAPTER 13-95
Rules Regulating the Taking and Selling of Certain Marine Resources

Hearing Dates,
Locations, and
Scheduled Start
Times:

Tuesday, January 07, 2020

Kealakehe High School Cafeteria

74-5000 Puohuliuhli Street; Kailua_Kona, Hawaii, 5:30 P.M.

Chiefess Kamakahelei Middle School Cafeteria

4431 Nuhou Street Lihue, Kauai; 5:30 P.M.

Lanai Public Library,

555 Fraser Avenue; Lanai City, Lanai; 1:00 P.M.

Mitchel Pauole Center Conference Room

90 Ainoa Street; Kaunakakai, Molokai; 1:00 P.M.

Wednesday, January 08, 2020

Stevenson Middle School Cafeteria

1202 Prospect Street; Honolulu, Oahu, 5:30 P.M.

Maui Division of Aquatic Resources Office Conference Room,

130 Mahalani Street, Wailuku, Maui, 5:30 P.M.

Thursday, January 09, 2020

Hilo State Building Conference Room

75 Aupuni Street, Hilo, Hawaii, 5:30 P.M.

I. Introduction

A. Opening

Statewide Public Hearings were held at seven locations listed above.

The Kailua-Kona public hearing was called to order at 5:48 P.M. Nikki Smith, DAR Kona Aquatic Biologist, conducted the Kailua-Kona hearing.

Also present were John Kahiapo, the DAR-HI Education Specialist, Lindsey Kramer, DAR Kona Habitat & Fish Monitoring Coordinator, and Stacia Marcoux DAR Kona Habitat & Fish Monitoring Technician. There were six persons from the public in attendance, listed under the Public Attendance section.

The Lihue public hearing was called to order at 5:40 P.M. David Sakoda, the DAR Fisheries Program Manager, conducted the Lihue hearing. Also present was Heather Ylitalo-Ward, DAR Kauai Aquatic Biologist, Ka'ili Shayler, DAR Kauai Aquatic Biologist, and Aaron Swink, DAR Kauai Education Specialist. There were four persons from the public in attendance, listed under the Public Attendance section.

The Lanai City public hearing was called to order at 1:02 P.M. Adam Wong, the DAR Maui Education Specialist, conducted the Lanai City hearing. There was one person from the public in attendance, listed under the Public Attendance section.

The Kaunakakai public hearing was called to order at 2:00 P.M. Russell Sparks, DAR Maui Aquatic Biologist, conducted the Kaunakakai hearing. There was no one in attendance from the public.

The Honolulu public hearing was called to order at 5:37 P.M. David Sakoda, the DAR Fisheries Program Manager, conducted the Honolulu hearing. Also present were Ryan McDermott, DAR Marine Law Fellow, and Bryan Ishida, DAR Aquatic Biologist. There were four persons from the public in attendance, listed under the Public Attendance section.

The Wailuku public hearing was called to order at 5:45 P.M. Russell Sparks, DAR Maui Aquatic Biologist, conducted the Wailuku hearing. Also present was Adam Wong, DAR Maui Education Specialist, Skippy Hau DAR Maui Aquatic Biologist, and Sue Baker DAR Maui Office Assistant. There was no one in attendance from the public.

The Hilo public hearing was called to order at 5:40 P.M. John Kahiapo, the DAR-HI Education Specialist, conducted the Hilo hearing. Also present was Jordyn Carter, Office Assistant, and Troy Sakihara, Aquatic Biologist, from the Hilo DAR office. There were six people from the public in attendance, listed under the Public Attendance section.

These were formal Public Hearings on the proposed repeal of Hawaii Administrative Rules (HAR) chapters 13-84, relating to Samoan crab, and 13-89, relating to spiny lobster or ula and slipper lobster or ula papapa, and the proposed amendment and compilation of HAR chapter 13-95 to update and consolidate rules and statutory provisions regulating the take, possession, and sale of Samoan crab, Kona crab, and lobster. The proposed rule changes would consolidate these three rules into one,

making it easier to locate all applicable regulations on these crustacean species. The proposed action would not result in any substantive changes, so the taking, possession, or sale of these resources will not be affected.

As required by law, the proposed rules have been drafted in Ramseyer format, and copies were available at the table near the entrance.

B. Purpose

The purpose of these hearings is to provide the public the opportunity to provide comments in the form of oral and written testimony on these proposed amendments to the administrative rules regulating the harvest of Samoan crabs, Kona crabs, and lobsters from State waters.

The hearing officer provided information on the requirements to 1) conduct the hearings, 2) make a record of the hearings, 3) receive testimonies, and 4) next steps in the hearing process.

C. Public Attendance

1. Kona: Six - Phil Fernandez, Norman Kaneta, Larry Aiona, Steve Kaiser, Len Nakano, Michael Abe
2. Kauai: Four - Vincent Silva, Devin Silva, Charlie Gilbert, Frank R. Medeiros
3. Lanai: One - Winifred Basques
4. Molokai: None
5. Oahu: Four - John D'Adamo, Rick Nosaka, Joshua DeMello, Jubilee Logan
6. Maui: None
7. Hilo: Six - Craig Severance, Brian Ogawa, Leia DeMello, Michael Kawamoto, Gil Kualii, Suzie Kawamoto

II. Background

- A. Regulations for the take, possession, and sale of Samoan crab, Kona crab, and certain species of lobster are found in various sections of the HAR and Hawaii Revised Statutes (HRS).

Samoan crab regulations

HAR §13-84 prohibits the taking, killing, possession, or sale of any Samoan crab carrying eggs externally, or less than six inches in carapace width.

HAR §13-95-52 also prohibits the take, killing, possession, or sale of any Samoan crab with eggs. In addition, it prohibits the take or killing of any Samoan crab with a spear, as well as sale of any speared Samoan crab.

HRS §188-58.5 prohibits the taking or killing of any female Samoan crab.

Kona crab regulations

HAR §13-95-51 prohibits the take, possession, or sale of any Kona crab less than four inches in carapace length; or during the months of May, June, July, and August; or with eggs; or with a spear.

HRS §188-58.5 prohibits the taking or killing of any female Kona crab.

Lobster regulations

HAR §13-89 regulates the take, killing, possession, and sale of spiny lobster (*Panulirus penicillatus* and *P. marginatus*) and two species of slipper lobster (*Scyllarides squammosus* and *S. haanii*). The rule contains different sets of regulations for waters adjacent to the main Hawaiian islands and waters adjacent to the Northwestern Hawaiian islands. For waters adjacent to the main Hawaiian islands, the rule prohibits the take, killing, possession, or sale of spiny lobster less than three and one-fourth inches in carapace length and slipper lobster less than two and three-fourths inches in tail width. Additionally, lobsters shall not be in a condition where the body is mutilated or the carapace and tail are separated. For waters adjacent to the Northwestern Hawaiian islands, the rule establishes minimum size limits based on tail width, restrictions on where lobster may be caught, and gear specifications. These rules were adopted to regulate the NWHI commercial lobster fishery, which no longer exists.

HAR §13-95-53 prohibits the take, killing, possession, or sale of any spiny lobster during the months of May, June, July, and August; or with eggs; or with a spear; or the sale of speared spiny lobster.

HAR §13-95-54 prohibits the take, killing, possession, or sale of slipper lobster during the months of May, June, July, and August; or with eggs; or with a spear; or the sale of any speared slipper lobster.

HRS §188-58.5 prohibits the taking or killing of any female spiny lobster.

The Department proposes to consolidate these provisions into one rule chapter, HAR 13-95.

- B. Approvals to conduct this public hearing have been obtained from the Board of Land and Natural Resources on October 11, 2019 and Governor Ige on November 7, 2019.

- C. Copies of the proposed administrative rules are available for inspection at the table near the entrance. During this hearing we want to record your thoughts on the proposed rules.

III. Notice of public hearing

- A. The Legal Notice of this public hearing was published in the December 08, 2019, Sunday issue of the Honolulu Star Advertiser. On January 02, 2020, the department issued a press release regarding this hearing.

IV. Hearing procedures

- A. This hearing will be conducted as follows:
 - 1. I will explain the proposed changes to the administrative rules.
 - 2. Then I will call on those who have signed up to testify as they are listed on the sign in sheet.
 - 3. Please keep your testimony brief and on the subject in order to allow all those who came today, the opportunity to testify. Each person providing testimony will be given 3 minutes.
 - 4. After those who signed up have presented their testimonies, I will ask if anyone else wishes to testify.
 - 5. After all persons have given their testimonies, and if you wish to add to your testimony, you will be provided an additional 3 minutes.
 - 6. We are recording this hearing to make a written record, so please state your name for the record before giving your testimony. Make sure to speak clearly into the microphone so we accurately record your testimony for the record.
 - 7. Please remember to respect the opinions of all testifiers and that this hearing is not an opportunity for accusations or rebuttals. There may be differing opinions. Everyone will have an opportunity to voice their opinion for the department to consider.
 - 8. All testimony should be directed to me, not to the audience. If you have a question, please direct it to me, and I will find the most appropriate person to answer.

V. Rule Explanation

Summary of Draft Administrative Rules

DAR proposes to repeal HAR chapters 13-84 (“Samoan Crab”) and 13-89 (“Spiny Lobster or Ula and Slipper Lobster or Ula Papapa”) and to incorporate their substantive provisions into HAR chapter 13-95. Consolidating these rules

into one rule chapter will facilitate compliance by making it easier for the public to find all applicable regulations on these crustacean species.

DAR also proposes to incorporate into HAR chapter 13-95 the statutory provisions of HRS §188-58.5, which prohibit the taking or killing of female Samoan crab, Kona crab, and spiny lobster. Statutory provisions are difficult to amend as they require legislative action. Transferring these provisions into administrative rules and eventually requesting the repeal of the corresponding statutory provisions would enable the Department to amend regulations through rulemaking to adaptively manage these resources based on the best available scientific information.

HAR chapter 13-84, “Samoan Crab”, would be repealed and the substantive provisions transferred to HAR chapter 13-95.

HAR chapter 13-89, “Spiny Lobster or Ula and Slipper Lobster or Ula Papapa”, would be repealed and the substantive provisions relating to lobster regulations in the main Hawaiian Islands would be transferred to HAR chapter 13-95. The provisions relating to the lobster fishery in the northwestern Hawaiian Islands would be repealed.

HAR chapter 13-95, “Rules Regulating the Taking and Selling of Certain Marine Resources”, would be amended and compiled to incorporate the substantive provisions of HAR chapters 13-84 and 13-89, as well as the provisions of HRS §188-58.5.

The proposed administrative rulemaking actions would not result in any substantive changes to existing laws, so the taking, possession, or sale of these resources will not be affected.

VI. Testimonies

A. Kona: Two

- a. Phil Fernandez – Support repeal of chapters 13-84 and 13-89 (see written testimony)
 - i. Kona crab fisherman (not lobster) 50 years (Oregon, Washington and Alaska) HFACT
 - ii. Opposes adding the restriction on taking female Kona crabs in chapter 13-95-51(g)
 - iii. Urges a longer closed season
- b. Steve Kaiser - Support
 - i. Commercial fisherman (mainly lobster and Kona Crab)
 - ii. Poor history of management
 - iii. Rules make it tough not to take females
 - iv. Fished all over the world

- v. No take of female almost shut down fishery
 - vi. Support a limit or change of season
 - vii. Deep water fishing makes it unlikely they make it to the bottom
 - viii. Missing limbs
 - ix. Take or possess – clarify take. Sometimes the females are in the gear before they can be released
 - x. Lobsters: don't see spike of egg bearing females in the summer
 - xi. Running buoys with lines in Humpback whale
 - xii. Reassigning seasons, make closed season in winter maybe can avoid humpback whales
 - xiii. Support the rule change – science-based not emotion-based
- B. Kauai: Two
 - a. Devin Silva - Support
 - i. Increase efficiency, allow rules to keep up to date with science
 - ii. Improve sustainability
 - b. Charlie Gilbert - Support
 - i. CML holder – believes change will improve efficiency
 - ii. Better manage the resource
- C. Lanai: None
- D. Molokai: None
- E. Oahu: Three
 - a. John D'Adamo - Support
 - i. Nothing to add
 - b. Rick Nosaka - Support
 - i. Asks DAR to consider forming a Fisheries Council to improve management and increase access to fishers' knowledge
 - c. Jubilee Logan - Support
 - i. Wants increased ability to take female crabs and lobsters
 - ii. Asks for DAR to better support fishers given all the fees the State charges fishers
- F. Maui: None
- G. Hilo: One
 - a. Craig Severance – Support (see written testimony)
 - i. Changes will improve clarity for outreach and education
 - ii. Hopefully improve future decision making
- H. Emailed testimonies: None

VII. Decision-making on the proposals:

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of L&NR at its February 2020 meeting.
- B. If approved by the Board, the Department of the Attorney General will conduct a final legal review. If approved, the proposed rules will be given to the Governor for his final approval.

Exhibit 1 – Public Hearing Minutes

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- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective as law.
- D. Are there any questions regarding this process?

VIII. Adjournment

- A. Kona: 6:10 P.M.; hearing was open for 22 minutes
- B. Kauai: 5:54 P.M.; hearing was open for 14 minutes
- C. Lanai: 1:20 P.M.; hearing was open for 18 minutes
- D. Molokai: 2:01 P.M.; hearing was open for 01 minute (no public attended)
- E. Oahu: 6:04 P.M.; hearing was open for 27 minutes
- F. Maui: 5:46 P.M.; hearing was open for 01 minute (no public attended)
- G. Hilo: 6:02 P.M.; hearing was open for 22 minutes

1/9/2020. Testimony in support of "Samoan Crabs, Kona Crabs, Lobster Proposed Rule Updates"

By Craig Severance severancecc@gmail.com 808-640-1670

For the record, I don't fish these species, (I'm allergic!), but I do serve on the Westpac Fishery Council's SSC and have been involved in reviewing the last 2 Kona Crab stock assessments, and in discussions and recommendations relating to Kona Crab. I'm testifying as an individual!

I strongly support consolidating the regulations under Hawaii Administrative Rules under DAR authority.

Simplification and clarity under one title should make outreach and education easier, improve DAR credibility, and potentially improve compliance. I hope that such a change will facilitate a future process of rethinking the Kona Crab regulations, and that DAR will follow through with such a review. In my view the current regulations result from a well-intentioned, but biologically naive involvement of the legislature in a process that has created regulations that almost certainly result in more harm than good to the sustainability of the Kona Crab stocks. While non-retention of all females seems logical and may have emotional appeal, there are no good data on post release mortality, and it is likely to be quite high, both from predation and from potential injury from entanglement and loss of pincers. That is a waste! In addition, skewing the take towards males may change the sex ratio, reduce the adult male population and further reduce reproductive capacity. Males have to reach a certain size before they are able to coax or dig females out of the sand to breed.

I refer you to the recent SSC recommendations: 1. Remove the regulation on no take of females and make it a retain all fishery, 2. review the size limits, 3. extend the closed season through September, 4. improve the estimate of the non-commercial catch. The latter could be done by going beyond MRIP, and doing some simple panel surveys of fishermen who regularly fish Kona crab out of those ports where Kona Crab grounds are known to be nearby. Mahalo.



January 7, 2020

Suzanne Case, Chairperson
Department of Land and Natural
Resources Kalanimoku Building
1151 Punchbowl St.
Honolulu, HI 96813

Re: Proposed Amendment and Compilation of Hawaii Administrative Rules
Chapter 13-95

Dear Chairperson Case,

Thank you for the opportunity to provide public testimony on the above
referenced topic. HFACT supports the repeal of Chapters 13-84 and 13-89.

HFACT strongly urges that the annual closure of the Kona Crab season be extended from August 31 to September 15, fifteen additional days of closure, and that this amendment be made to Chapter 13-95-51 (b) and (c).

HFACT opposes the addition of 13-95-51 (g). HFACT's suggested extension of the seasonal closure to September 15 protects gravid female crabs. This additional protection is for all sizes of crab, larger and smaller than the minimum size limit set in 13-95-51 (a). This additional time will allow all gravid females to spawn, and will result in significant positive addition to the stock of Kona Crab. Currently gravid females are being caught in tangle nets, and all sizes of females are being returned to the waters. These crabs have a high likelihood of mortality. Kona Crab biology shows that there is high mortality when crabs are returned to the waters when legs are pulled off or damaged. Biology of crabs show that a crab's ability repair wounds during their hard shell stage is low. With low ability to repair wounds, infections and liquification of muscle tissue occur, often resulting in mortality. Retention of females, larger than 4 inches carapace length, will allow harvest of mortally damaged female crabs.

The proposed extended closure would be easy to enforce, since any boat that is tending crab nets in an area commonly known as Kona Crab habitat can be easily spotted. The prohibition of take of female crab is unnecessary. Should the state wish to control the take of female crabs, HFACT suggests a catch limit rather than outright prohibition. HFACT continues to support a ban on the take of females with eggs.

Minor grammatical changes proposed for 13-95-51 (a) (d) (e) and (f) are acceptable.

HFACT make no comments on Chapters 13-95-52 Samoan Crab, 13-95-53 Spiny Lobster, and 13-95-54 Slipper Lobster.

Thank you for the opportunity to comment on the rule

proposal. Sincerely and Aloha,

Phil
Fernandez
President

*Hawai'i Fishermen's Alliance for
Conservation and Tradition, Inc.*

75-796 Hlona Street, Hualaloa HI 96725

Exhibit 2

Repeal of Chapters 13-84 and 13-89 and
Amendment and Compilation of Chapter 13-95
Hawaii Administrative Rules

(date adopted)

1. Chapter 13-84, Hawaii Administrative Rules, entitled "Samoan Crab", is repealed.
2. Chapter 13-89, Hawaii Administrative Rules, entitled "Spiny Lobster or Ula and Slipper Lobster or Ula Papapa", is repealed.
3. Chapter 13-95, Hawaii Administrative Rules, entitled "Rules Regulating the Taking and Selling of Certain Marine Resources", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 95

RULES REGULATING THE TAKING AND SELLING
OF CERTAIN MARINE RESOURCES

\$13-95-1	Definitions
\$13-95-1.1	Licenses, permits, and other exemptions
\$13-95-2	Penalty
\$13-95-3	Severability
\$13-95-4	Aholehole
\$13-95-5	Manini
\$13-95-6	Moano
\$13-95-7	Kumu
\$13-95-8	Mullet
\$13-95-9	Awa
\$13-95-10	Oio
\$13-95-11	Kala
\$13-95-12	Opelu kala
\$13-95-13	Opakapaka
\$13-95-14	Onaga
\$13-95-15	Uku
\$13-95-16	Uhu
\$13-95-17	Ahi
\$13-95-18	Opelu
\$13-95-19	Akule
\$13-95-20	Iao
\$13-95-21	Nehu
\$13-95-22	Ulua
\$13-95-23	Moi
\$13-95-24	Weke
\$\$13-95-25 to 49	(Reserved)
\$13-95-50	Kuhonu crab
\$13-95-51	Kona crab
\$13-95-52	Samoan crab
\$13-95-53	Spiny lobster
\$13-95-54	Slipper lobster
\$13-95-55	He'e
\$\$13-95-56 to 69	(Reserved)
\$13-95-70	Stony corals
\$13-95-71	Live rocks

§13-95-1 Definitions. As used in this chapter, unless otherwise provided:

"Aholehole" means any fish known as *Kuhlia xenura* or *Kuhlia sandvicensis* or any recognized synonym.

"Akule" means any fish identified as *Selar crumenophthalmus* or other recognized synonym. This fish is also known as pa'a'a, halalu, hahalalu, and big-eyed scad.

"Awa" means any fish known as *Chanos chanos* or any recognized synonym.

"Break" means to hit with, or to apply sufficient force to reduce to smaller pieces or to crack without actually separating into pieces.

"Carapace length" means the straight line measurement from the tip of the rostrum to the middle of the trailing edge of the body or carapace, not including the tail.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 13-74-20 and section 189-2, HRS.

"Damage" means to scrape, smother, poison, or otherwise cause any physical or physiological harm to the living portion of a stony coral or live rock.

"Day" means a twenty-four hour period.

"He'e" means any mollusk known as *Octopus cyanea*, *Octopus ornatus*, or any recognized synonym.

"Kala" means any fish known as *Naso unicornis*, *Naso brevirostris*, *Naso annulatus*, or any recognized synonym.

"Kona crab" means any crab known as *Ranina ranina* or any recognized synonym.

"Kumu" means any fish known as *Parupeneus porphyreus* or any recognized synonym.

"Length" means the straight line measurement from the tip of the snout to the middle of the trailing edge of the tail.

"Live rock" means any natural hard substrate to which marine life is visibly attached or affixed.

"Manini" means any fish known as *Acanthurus triostegus sandvicensis* or any recognized synonym.

"Mitigation" means activities carried out in accordance with this chapter in order to avoid,

minimize, restore, or compensate for losses of certain marine resources due to authorized activities.

"Moano" means any fish known as *Parupeneus multifaciatus* or any recognized synonym.

"Moi" means any fish known as *Polydactylus sexfilis* or any recognized synonym.

"Mullet" means any fish known as *Mugil cephalus* or any recognized synonym.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

"Oio" means any fish known as *Albula glossodonta* or any recognized synonym.

"Opelu kala" means any fish known as *Naso hexacanthus* or any recognized synonym.

"Renewable energy projects" means projects developed by renewable energy producers, as the term is defined in section 171-95, Hawaii Revised Statutes, that reduce the consumption of non-renewable energy resources or produce renewable energy.

"Samoa crab" means any crab known as *Scylla serrata* or any recognized synonym.

"Sell" means to solicit and receive an order for; to have, or keep, or offer, or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; and to traffic in.

"Speared" means to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the aquatic life was speared.

"Slipper lobster" means any crustacean of the species *Scyllarides squammosus* or [*S. haani*,] *S. haanii*, or recognized synonyms. These animals are also known as rock lobster, mole lobster, shovel-nosed lobster, or ula papapa.

"Spiny lobster" means any crustacean of the [~~species *Panulirus penicillatus* or *P. marginatus*, or recognized synonyms.~~] genus *Panulirus*. These animals

are also known as lobster, Hawaiian spiny lobster, red lobster, green lobster, or ula.

"Stony coral" means any invertebrate species belonging to the Order Scleractinia, characterized by having a hard, calcareous skeleton, that are native to the Hawaiian islands.

"Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking.

"Uhu" means any fish known as *Scarus dubius*, *Scarus psittacus*, *Scarus rubroviolaceus*, *Chlorurus sordidus*, *Chlorurus perspicillatus*, or any recognized synonym.

"Ulua" means any fish known as *Caranx ignobilis*, *Caranx lugubris*, *Caranx melampygus*, *Caranx sexfasciatus*, *Carangoides equula*, *Carangoides ferdau*, *Carangoides orthogrammus*, or any recognized synonym. The young of these species are also known as papio.

"Weke" means any fish known as *Mulloidichthys flavolineatus* or any recognized synonym. These fish are also known as goatfish, yellowstripe goatfish, weke a, and the young of this fish is known as oama.

[Eff 12/03/98; am 1/11/02; am 12/09/02; am 12/19/02; am 5/01/14; am 10/19/18; am and comp]

(Auth: HRS §§187A-3.5, 187A-5, 190-3) (Imp: HRS §§187A-3.5, 187A-5, 190-3)

§13-95-1.1 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

§13-95-1.1

- (1) Licenses issued pursuant to sections 187A-3.5, 188-44, 188-57, or 189-6, HRS;
- (2) Permits issued pursuant to sections 187A-6, 188-23, 188-37, 188-68, or 190-4, HRS; or
- (3) As may be otherwise provided by law. [Eff 12/19/02; am 5/01/14; comp]
(Auth: HRS §§187A-3.5, 187A-6, 188-44, 188-45, 188-57, 188-68, 190-3) (Imp: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68, 190-4)

§13-95-2 Penalty. (a) A person violating any section of this chapter may be subject to any applicable criminal or administrative penalties or both. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

(b) For the purpose of calculating the administrative penalties for violations of this chapter, if a fine per specimen may be applicable, fines per specimen may be imposed on the following basis:

- (1) For finfish, each individual;
- (2) For invertebrates, not including stony corals or live rock, each individual;
- (3) For solitary (having a single polyp) stony corals, each individual;
- (4) For colonial stony corals:
 - (A) Each damaged head or colony less than one square meter in surface area; or
 - (B) For a colony greater than one square meter in surface area, each square meter of colony surface area and any fraction remaining constituting an additional specimen;
- (5) For live rocks, each individual; but if the violation involves greater than one square meter of bottom area, on the basis of each

square meter of bottom area. [Eff 12/03/98;
am 5/01/14; comp] (Auth:
HRS §§187A-5, 188-53, 190-3) (Imp: HRS
§§183C-7, 187A-5, 187A-12.5, 187A-13, 188-
53, 188-70, 189-4, 190-5)

§13-95-3 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff 12/3/98; comp] (Auth: HRS §§187A-5) (Imp: HRS §§187A-5, 1-23)

§13-95-4 Aholehole. It shall be unlawful for any person to take, possess, or sell any ahollehole less than five inches in length. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-5 Manini. It shall be unlawful for any person to take, possess, or sell any manini less than five inches in length. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6 Moano. It shall be unlawful for any person to take, possess, or sell any moano less than seven inches in length. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7

§13-95-7 Kumu. It shall be unlawful for any person to take, possess, or sell any kumu less than ten inches in length. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-8 Mullet. (a) It shall be unlawful for any person to take, possess, or sell any mullet less than eleven inches in length.

(b) It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, or have in possession any mullet during the months of December, January, February, and March; provided that any owner or operator of a fish pond may lawfully catch the young mullet known as pua during the closed season, for the purpose of stocking the owner's or operator's pond; and provided further that any owner or operator of a fish pond or any commercial marine dealer may lawfully sell pond raised mullet during the closed season after first procuring a license to do so pursuant to sections 13-74-40 or 13-74-43. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-9 Awa. It shall be unlawful for any person to take, possess, or sell any awa less than nine inches in length. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-10 Oio. It shall be unlawful for any person to take, possess, or sell any oio less than

fourteen inches in length. [Eff 12/03/98; am
12/19/02; comp] (Auth: HRS §187A-5)
(Imp: HRS §187A-5)

§13-95-11 Kala. It shall be unlawful for any person to take, possess, or sell any kala less than fourteen inches in length. [Eff 12/03/98; am
12/19/02; comp] (Auth: HRS §187A-5)
(Imp: HRS §187A-5)

§13-95-12 Opelu kala. It shall be unlawful for any person to take, possess, or sell any opelu kala less than sixteen inches in length. [Eff 12/03/98; am
12/19/02; comp] (Auth: HRS §187A-5)
(Imp: HRS §187A-5)

§13-95-13 Opakapaka. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any opakapaka less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared opakapaka less than one pound in weight. [Eff 12/3/98; comp
] (Auth: HRS §187A-5) (Imp: HRS
§187A-5)

§13-95-14 Onaga. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any onaga less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared onaga less than one pound in weight. [Eff 12/3/98; comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-15

§13-95-15 Uku. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any uku less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared uku less than one pound in weight. [Eff: 12/3/98; comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16 Uhu. It shall be unlawful for any person to take, possess, or sell any uhu less than twelve inches in length. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-17 Ahi. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any ahi less than three pounds in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared ahi less than three pounds in weight. [Eff: 12/3/98; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-18 Opelu. It shall be unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking opelu with fish or animal bait within the waters off the coast of South Kona, island of Hawaii, between the Kiilae-Keokea boundary and the Kapua-Kaulanamauna boundary, except with hook and line. [Eff 12/3/98; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-19 Akule. (a) It shall be unlawful for any person to take any akule measuring less than eight and one-half inches in length, with a net during the months of July, August, September, and October.

(b) It is unlawful for any person, other than marine seafood dealers, to possess or sell more than two hundred pounds of akule measuring less than eight and one-half inches in length per day during July, August, September, and October; except as may be otherwise provided by law. [Eff 12/03/98; am 1/11/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-20 Iao. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured iao taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any iao; provided that the department may issue licenses pursuant to section 13-74-22, to take iao for use as bait only. [Eff: 12/3/98; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-21 Nehu. (a) It shall be unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured nehu taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu; provided that the department may issue licenses pursuant to section 13-74-22, to take nehu for use as bait only and as maybe otherwise allowed under chapter 13-90. [Eff 12/3/98; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22

§13-95-22 Ulua. (a) It is unlawful for any person to take or possess any ulua less than ten inches in length.

(b) It is unlawful for any person to sell any ulua less than sixteen inches in length.

(c) It is unlawful for any person to take or possess more than twenty ulua measuring more than ten inches in length per day; provided that a commercial marine licensee may take, possess, and sell more than twenty such ulua; and further provided that a commercial marine dealer may possess and sell more than twenty such ulua with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes. [Eff 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Section 13-95-22 is based substantially upon Chapter 87 of Title 13. [Eff 5/26/81; am 1/25/82; R 12/19/02] Chapter 87 of Title 13 was based substantially upon Regulation 19 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; R 5/26/81]

§13-95-23 Moi. (a) It is unlawful for any person to take, possess, or sell any moi less than eleven inches in length.

(b) It is unlawful for any person to take, possess, or sell more than fifteen moi per day during September through May; provided that a commercial marine dealer may possess and sell more than fifteen moi with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes.

(c) It is unlawful for any person to take, possess, or sell any moi during June, July, and August. [Eff 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Section 13-95-23 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02] Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii.

§13-95-24 Weke. (a) It is unlawful for any person to take or possess more than fifty weke less than seven inches in length per day.

(b) It is unlawful for any person to sell any weke less than seven inches in length. [Eff 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Section 13-95-24 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02] Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii.

§13-95-50 Kuhonu crab. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any kuhonu crab less than four inches in length or in width across or along its back.

(b) It is unlawful for any person to catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for

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sale, or to kill, any kuhonu crab while with eggs. Any kuhonu crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any kuhonu crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(c) No person shall pursue, take, or kill any kuhonu crab in the State with a spear.

(d) No person shall offer for sale any speared kuhonu crab. [Eff 12/3/98; comp]

(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-51 Kona crab. (a) It ~~[shall be]~~ is unlawful for any person to take, possess, or sell any Kona crab less than four inches in carapace length.

(b) It is unlawful for any person to take, possess, or sell any Kona crab taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(c) The possession of any Kona crab by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve Kona crab lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(d) It is unlawful for any person to take, possess, or sell any Kona crab ~~[while]~~ with eggs. Any Kona crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any Kona crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(e) ~~[No person shall]~~ It is unlawful for any person to pursue, take, or kill any Kona crab in the State with a spear.

(f) ~~[No person shall]~~ It is unlawful for any person to possess or sell any speared Kona crab.

(g) It is unlawful for any person to take or kill any female Kona crab. [Eff 12/03/98; am 12/19/02; am and comp] (Auth: HRS §187A-5) (Imp: HRS §§187A-5, 188-58.5)

§13-95-52 Samoan crab. (a) It is unlawful for any person to take, possess, or sell any Samoan crab less than six inches in width measured across the carapace or back.

~~[(a)](b)~~ It is unlawful for any person to [catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill,] take, kill, possess, or sell any [samoan] Samoan crab [while] with eggs. Any [samoan] Samoan crab with eggs caught must immediately be returned to the waters from which the [samoan] Samoan crab was taken. The possession of any [samoan] Samoan crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

~~[(b)](c)~~ ~~[No person shall]~~ It is unlawful for any person to pursue, take, or kill any [samoan] Samoan crab in the State with a spear.

~~[(c)](d)~~ ~~[No person shall offer for sale]~~ It is unlawful for any person to possess or sell any speared [samoan] Samoan crab.

(e) It is unlawful for any person to take or kill any female Samoan crab. [Eff 12/3/98; am and comp] (Auth: HRS §187A-5) (Imp: HRS §§187A-5, 188-58.5)

Historical note: Subsection 13-95-52(a) is based substantially upon chapter 84 of title 13. [Eff 5/26/81; am 1/25/82; R] Chapter 84 of Title 13 was based substantially upon Regulation 14 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 11/25/41

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(Governor's approval date); am 7/28/47; am and ren 3/28/58; R 5/26/81]

§13-95-53 Spiny lobster. (a) It is unlawful for any person to take, kill, possess, or sell any spiny lobster less than three and one-fourth inches in carapace length, measured in a straight line along the carapace or head, from the ridge between the two largest spines above the eyes to the rear edge of the carapace.

~~[(a)]~~ (b) It is unlawful for any person to take, kill, possess, or sell~~[, or offer for sale, or have in possession]~~ any spiny lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

~~[(b)]~~ (c) The possession of any spiny lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve spiny lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

~~[(c)]~~ (d) It is unlawful for any person to ~~[catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill,]~~ take, kill, possess, or sell any spiny lobster [while] with eggs. Any spiny lobster with eggs caught must immediately be returned to the waters from which the spiny lobster was taken. The possession of any spiny lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

~~[(d)]~~ (e) ~~[No person shall]~~ It is unlawful for any person to pursue, take, or kill any spiny lobster in the State with a spear.

~~[(e)]~~(f) ~~[No person shall offer for sale]~~ It is unlawful for any person to possess or sell any speared spiny lobster.

(g) It is unlawful for any person to possess or sell any spiny lobster in a condition where the body is mutilated, or the carapace and tail are separated.

(h) It is unlawful for any person to take or kill any female spiny lobster. [Eff 12/3/98; am and comp] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-57, 188-58.5)

Historical note: Subsections 13-95-53(a) and (g) are based substantially upon Chapter 89 of Title 13. [Eff 5/26/81; am 6/6/83; am 6/25/84; am and comp 2/6/87; am and comp 5/5/88; am and comp 8/14/89; R

] Chapter 89 of Title 13 was based substantially upon Regulation 22 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; am 7/9/59; am 7/18/59 (Governor's approval date); am 9/17/60 (Governor's approval date); am 8/4/78; R 5/26/81]

§13-95-54 Slipper lobster. (a) It is unlawful for any person to take, kill, possess, or sell any slipper lobster less than two and three-fourths inches in tail width, measured in a straight line across the widest spot of the tail between the first and second abdominal segments.

~~[(a)]~~(b) It is unlawful for any person to take, kill, possess, or sell~~[, or offer for sale, or have in possession]~~ any slipper lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

~~[(b)]~~(c) The possession of any slipper lobster by any person during the months of May, June, July, and August shall be prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house

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may serve slipper lobster lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

~~[(e)]~~ (d) It is unlawful for any person to ~~[catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill,]~~ take, kill, possess, or sell any slipper lobster ~~[while]~~ with eggs. Any slipper lobster with eggs caught must immediately be returned to the waters from which the slipper lobster was taken. The possession of any slipper lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

~~[(d)]~~ (e) ~~[No person shall]~~ It is unlawful for any person to pursue, take, or kill any slipper lobster in the State with a spear.

~~[(e)]~~ (f) ~~[No person shall offer for sale]~~ It is unlawful for any person to possess or sell any speared slipper lobster.

(g) It is unlawful for any person to possess or sell any slipper lobster in a condition where the body is mutilated, or the carapace and tail are separated.
[Eff 12/3/98; am and comp] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-57)

Historical note: Subsections 13-95-54(a) and (g) are based substantially upon chapter 89 of title 13 [Eff 5/26/81; am 6/6/83; am 6/25/84; am and comp 2/6/87; am and comp 5/5/88; am and comp 8/14/89; R

] Chapter 89 of title 13 was based substantially upon regulation 22 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; am 7/9/59; am 7/18/59 (Governor's approval date); am 9/17/60 (Governor's approval date); am 8/4/78; R 5/26/81]

§13-95-55 He'e. It shall be unlawful for any person to take, possess, or sell any he'e less than one pound in weight. [Eff 12/19/02; comp
] (Auth: HRS §187A-5) (Imp: HRS
§187A-5)

Historical Note: Section 13-95-55 is based substantially upon Chapter 86 of Title 13. [Eff 5/26/81; R 12/19/02] Chapter 86 of Title 13 was based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; R 5/26/81]

§13-95-70 Stony corals. (a) Except as otherwise provided in this section or authorized by law:

- (1) Subject to subsections (b) and (c), it is unlawful for any person to take, break, or damage any stony coral, except as provided in sections 171-58.5 and 205A-44, HRS;
- (2) It is unlawful for any person to damage any stony coral by any intentional or negligent activity causing the introduction of sediment, biological contaminants, or pollution into state waters;
- (3) It is unlawful for any person to sell any stony coral; except that stony coral rubble pieces or fragments imported for the manufacture and sale of coral jewelry, or dead stony coral obtained through legal dredging operations in Hawaii for agricultural or other industrial uses, may be sold.

(b) No liability shall be imposed under subsection (a)(1) of this section for inadvertent breakage, damage, or displacement of an aggregate area of less than one half square meter of coral if caused by:

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- (1) A vessel with a single anchor damage incident, in an area where anchoring is not otherwise prohibited, and not more frequently than once per year; or
- (2) Accidental physical contact by an individual person.
- (c) The Department may authorize damage to stony corals for the development or operation of renewable energy projects and shall require mitigation to offset any stony coral losses.
- (d) Any person found in violation of any provision of this section pursuant to a criminal prosecution shall be subject to penalty as provided under section 187A-13, HRS. Any person found in violation of any provision of this section pursuant to civil or administrative action shall be subject to penalty as provided under section 187A-12.5, HRS.
[Eff 12/03/98; am 12/09/02; am 5/01/14; am 10/19/18; comp] (Auth: HRS §§187A-5, 189-6, 190-3) (Imp: HRS §§187A-6, 187A-12.5, 187A-13, 189-6, 190-1, 190-3, 190-5)

§13-95-71 Live rocks. (a) Except as otherwise provided in this section or authorized by law:

- (1) Subject to subsections (b) and (c), it is unlawful for any person to take, break, or damage any live rock;
 - (2) Subject to subsection (b), it is unlawful for any person to damage any live rock by any intentional or negligent activity causing the introduction of sediment, biological contaminants, or pollution into state waters; and
 - (3) It is unlawful for any person to sell any live rock.
- (b) No liability shall be imposed under subsections (a)(1) or (a)(2) of this section for inadvertent breakage, damage, or displacement of an aggregate area of less than one square meter of live rock bottom cover.

(c) The Department may authorize damage to live rock for the development or operation of renewable energy projects and shall require mitigation to offset any live rock losses.

(d) Any person found in violation of any provision of this section pursuant to a criminal prosecution shall be subject to penalty as provided under section 187A-13, HRS. Any person found in violation of any provision of this section pursuant to civil or administrative action shall be subject to penalty as provided under section 187A-12.5, HRS."
[Eff 12/03/98; am 12/09/02; am 5/01/14; 10/19/18; comp
] (Auth: HRS §§187A-5, 189-6, 190-3)
(Imp: HRS §§187A-6, 187A-12.5, 187A-13, 189-6, 190-1, 190-3, 190-5)

4. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

5. Additions to update source notes to reflect these amendments and compilation are not underscored.

6. The repeal of chapters 13-84 and 13-89 and amendments to and compilation of chapter 13-95, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chairperson, Board of Land
and Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General